

**FILED**

US District Court Middle District of TENNESSEE

2014 JUN -9 PM 1:38

) Craig Cunningham  
) Plaintiff, pro se  
)  
)

U.S. DISTRICT COURT  
MIDDLE DISTRICT OF TN

) v.

**CIVIL ACTION NO.**

**3-14 1277**

)  
) Kyle Robertson, Healing  
) Group Consultants, Ivan Baker,  
) The right place detox, Ft Lauderdale addiction center,  
) Holistix by the sea, Midwest Marketing, LLC  
) Defendants.

**Original Complaint**

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248 Nashville, TN 37211
2. The Defendant Kyle Robertson is the owner of Healing Group Consultants and Midwest Marketing which upon information and belief are the parties responsible for making illegal marketing calls to the Plaintiff in violation of the TCPA and can be served via their registered agent.
3. Healing Group Consultant's registered agent is MP Financial Services, LLC, 1880 N. Congress Ave, ste 215, Boynton Beach, FL 33426. Their primary address is 3049 Waterside Cir Apt 52 Boynton Beach, FL 33435
4. Midwest Marketing's registered agent is located at Morris and O' Malley PA, 525 S. Flagler ste 200 West Palm beach, FL 33401. The primary address is 4114 Artesa Drive Boynton Beach, FL 33436.

5. The right place detox is a residential detox company operating under the legal name of K3D industries, LLC and can be served via registered agent Joseph M Kraus at 1881 NE 26<sup>th</sup> street, ste 212 Wilton Manors FL 33305.
6. Ft Lauderdale Addiction center is a drug rehab company that knowingly accepted and benefited from the illegal calls by Healing Group Consultants and is vicariously liable. Their mailing address is 307 SW 5<sup>th</sup> Street, Ft. Lauderdale, FL 33315 and registered agent is Marc Tanner, 2564 NE 26<sup>th</sup> Ave, Ft. Lauderdale, FL 33305.
7. Holistix by the sea is a drug rehab company that knowingly accepted and benefited from the illegal calls by Healing Group Consultants and is vicariously liable. Their operating address is 1815 E Commercial Blvd #206, Ft Lauderdale, FL 3308. The registered agent is Natalie Adams 1640 W. Oakland Park, Blvd. Ste 303 Ft Lauderdale, FL 33311.
8. Ivan Baker is a natural person who is an officer in Midwest marketing and can be served via registered agent at Morris and O' Malley PCA 525 S. Flagler, ste 200 West Palm Beach, FL 33401.

#### **Jurisdiction**

9. Jurisdiction of this court arises as the acts happened and the contract was breached in this county.
10. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here.

## FACTUAL ALLEGATIONS

11. Going back to 2012, the Plaintiff has received multiple phone calls likely numbering in the dozens if not substantially more from the "National Crisis" that were automated calls containing pre-recorded messages to the Plaintiff's cell phone.
12. The calls offered help for anyone suffering from drug or alcohol addiction. The calls were never solicited or consented to by the Plaintiff and the Plaintiff has never given anyone permission to call his cell phone using an automated dialing system or pre-recorded message. The Plaintiff doesn't suffer from drug or alcohol addiction and doesn't know anyone who is.
13. Some of the calls were twice daily or every day generally around the same time. The calls were from multiple different numbers over the years. Sometimes the calls would ring, but not connect. In general, the calls were unwanted, annoying, and violated multiple provisions of 47 USC 227, the Telephone Consumer protection Act.
14. The Plaintiff was finally able to identify the entity making the call in 2014, which was Healing Group Consultants as identified by an Agent named Ryan for Healing Group Consultants. The person calling didn't offer any counseling or actual help for addiction and was more interesting in verifying the Plaintiff's insurance information so he could arrange for a trip to several South Florida detox and drug treatment facilities.

15. The Plaintiff then called and confirmed with each of the the drug treatment centers that they knew Ryan and he worked on their behalf as an admissions counselor.
16. Upon information and belief, the Defendants are using automated telephone dialing systems to generate leads for the drug treatment centers. They are trying to screen for people who have drug/alcohol problems so they can quickly get them into a program and charge their insurance accordingly.
17. These calls were willful, deliberate acts and as such warrant treble damages to \$1500 for each violation or \$3,000 per phone call. The Plaintiff is in the process of identifying the total number of phone calls placed, but there are a large number of calls over several years.
18. The Defendants are jointly and severally liable to the Plaintiff. The drug treatment companies are vicariously liable for their employee/agent's actions as well as they were the principal parties for whom the calls were made for.

### **CAUSES OF ACTION:**

#### **COUNT I**

##### **Violating 47 USC 227 TCPA**

Defendants violated the TCPA by placing automated telephone calls with pre-recorded messages to the Plaintiff's cell phone. This element of the call violated 47 USC 227 (b)(1) and affords the Plaintiff a private right of action under 47 USC 227(b)(3)(A).

## **Count II**

### **Violating 47 USC 227 TCPA Do not call provisions**

Defendants violated the TCPA by placing calls to the Plaintiff's cell phone using a pre-recorded message that did not contain the name, address, and phone number of the entity being called. This element of the call violated the do not call list subsection which has a private right of action under 47 USC 227(c)(5)

## **Count III**

### **Invasion of Privacy/harassment**

The Defendant's actions constitute an invasion of privacy for the Plaintiff and harassment

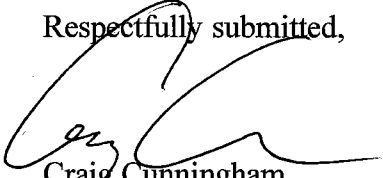
## **PRAYER FOR DAMAGES AND RELIEFS**

- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that judgment be entered against Defendants for the following:
- B. Pre-judgment interest from the date of breach.
- C. Actual damages of \$50,000
- D. Punitive damages for all claims in the amount of \$250,000
- E. Attorney's fees for bringing this action; and
- F. Costs of bringing this action; and

G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,



Craig Cunningham

Plaintiff, Pro-se

Mailing address:

Craig Cunningham

5543 Edmondson Pike ste 248

Nashville, tn 37211

615-348-1977

June 6<sup>th</sup> 2014